IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.7010 OF 2005

Faisal Mohd.Iqbal Tambe ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.Manoj J.Bhatta for the Applicant
Ms M.H.Mhatre,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 27,2005

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The Advocate for the Applicant states that on plain reading of the F.I.R. no case is made out of commission of offence under section 376 of the Indian Penal Code. He pointed out that there is a gross delay in filing the F.I.R. The learned A.P.P. submitted that the allegations are of serious nature requiring the custodial interrogation of the Applicant.

2. The age of the prosecutrix is 26 years. The F.I.R. is registered on 3rd October 2005. The F.I.R. relates to the allegations of commission of offence under section 376 of the I.P.C. in November 2001 and on 17th March 2005. Even in November 2001, the age of the prosecutrix was more than 21 years and she was married. According to the prosecutrix on 17th March 2005 the Applicant committed the offence. Thereafter, on 24th July 2005 her husband gave Talaq to her.

F.I.R. is registered on 3rd October 2005. Prima facie, there is no explanation for such a gross delay.

3. Undue harrasment will be caused to the applicant if he is subjected to arrest.

4. Hence I pass the following order :

i) In the event of the arrest of the Applicant in connection with C.R.No.I-317/2005 registered with Mumbra Police Station, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will attend the concerned Police Station for a period of one week from 29th October 2005 on every day between 4 to 6 p.m. and thereafter till filing of the charge sheet the Applicant will attend the concered Police Station as and when called upon to do so and will cooperate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him

from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE